

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

Maceo Sandy Scott, Jr.,	)	
	)	
Plaintiff,	)	Civil Action No.: 3:19-cv-00909-JMC
	)	
v.	)	
	)	
Dutch Fork Magistrate; and	)	
Melvin Wayne Maurer, Magistrate	)	<b>ORDER AND OPINION</b>
Judge,	)	
	)	
Defendants.	)	
_____	)	

Before the court for review is the Magistrate Judge’s Report and Recommendation (“Report”) filed on May 2, 2019 (ECF No. 14). The court **ACCEPTS** the Magistrate Judge’s Report and incorporates it herein by reference. For the reasons set out in the Report, the court **DISMISSES** Plaintiff Maceo Sandy Scott, Jr.’s Complaint (ECF No. 1) *without prejudice* and without issuance and service of process.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a full recitation. (ECF No. 14 at 1–4.) As brief background, on March 26, 2019, Plaintiff, proceeding pro se and in forma pauperis, commenced this 42 U.S.C. § 1983 action against Defendants, alleging violations of his constitutional rights. (ECF No. 1.) On April 11, 2019, the Magistrate Judge granted Plaintiff an opportunity to amend his Complaint. (ECF No. 8.) On April 29, 2019, Plaintiff filed a letter in response in which he restated his original allegations. (ECF No. 11 at 1.)

On May 2, 2019, the Magistrate Judge entered her Report. (ECF No. 14.) The Report

recommends dismissing the Complaint without prejudice and without issuance and service of process because (1) Defendant Judge Maurer is entitled to absolute immunity from Plaintiff's claims because the claims relate to his judicial actions; (2) Defendant Dutch Fork Magistrate is not a person and, thus, the second element of 42 U.S.C. § 1983 cannot be established against this Defendant; and (3) Plaintiff's claims related to his conviction and sentence are "barred by the holding in *Heck v. Humphrey*, 512 U.S. 477 (1994)." *Id.* at 3–6.

## **II. STANDARD OF REVIEW**

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District Court of South Carolina. The Magistrate Judge only makes a recommendation to this court; the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–1 (1976). This court engages in a de novo review of those portions of the Report and Recommendation to which the parties have made specific objections. *See* 28 U.S.C. § 636(b)(1). *See also* Fed. R. Civ. P. 72(b)(3). The court may accept, reject or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

## **III. DISCUSSION**

On May 2, 2019, as part of the Report, the Magistrate Judge notified the parties of their right to file objections by May 16, 2019. (ECF No. 14.) Neither of the parties filed any objections to the Report by this date. Instead, Plaintiff submit a letter dated May 14, 2019, requesting that the court "issue the summons on Dutch Fork Magistrate Wayne Maurer" and hold "a fair hearing from all involved individuals." (ECF No. 16.)

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendations without modification. *See Camby v.*

*Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Absent objections, the court must only ensure that there is no clear error on the face of the record in order to accept the recommendations. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). If a party fails to file specific, written objections to the Report, the party forfeits the right to appeal the court's decision concerning the Report. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Accordingly, since none of the parties filed any objections to the Report, and the court observes no clear error on the face of the record, the court accepts the Magistrate Judge's Report. See *Diamond*, 416 F.3d at 315; *Camby*, 718 F.2d at 199.

#### IV. CONCLUSION

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report and Recommendation provides an accurate summary of the facts and law in this case. Accordingly, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 14) and incorporates it herein by reference. For the reasons set out in the Report, the court **DISMISSES** Plaintiff Maceo Sandy Scott, Jr.'s Complaint (ECF No. 1) *without prejudice* and without issuance and service of process.

**IT IS SO ORDERED.**



United States District Judge

June 7, 2019  
Columbia, South Carolina